



Signed and Filed: July 19, 2005

A handwritten signature in dark ink, appearing to read "T. E. Carlson", is written over a horizontal line.

THOMAS E. CARLSON  
U.S. Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

In re	)	Case No: 02-31521 TC
ALEXIS MAGER LAKUSTA,	)	
	)	
Debtor.	)	Chapter 7
	)	
ALEXIS MAGER LAKUSTA,	)	
	)	Adv. Proc. No. 03-3549 TC
Plaintiff,	)	
vs.	)	Date: July 22, 2005
	)	Time: 9:30 a.m.
MARK H. EVANS,	)	Ctrm: Hon. Thomas E. Carlson
	)	235 Pine Street
Defendant.	)	San Francisco, CA

**MEMORANDUM RE PLAINTIFF'S MOTION FOR  
AMENDMENT OF JUDGMENT UNDER RULE 60(b)**

Plaintiff Alexis Lakusta filed and set for hearing a motion seeking reconsideration of this court's June 8, 2005 judgment in the above-entitled action.

Plaintiff asserts that this court erred in determining that the present lawsuit was barred under a prior settlement agreement, because that settlement agreement was intended to resolve a prior

1 lawsuit, not the present lawsuit. This argument is unpersuasive  
2 because the settlement agreement, which arose out of the same  
3 transaction at issue in the present lawsuit, contained a release of  
4 all known and unknown claims.

5 Plaintiff also asserts that the form of judgment submitted by  
6 Defendant's counsel and later entered by the court was not properly  
7 served upon Plaintiff and his counsel. This argument is  
8 unpersuasive. The proposed form of judgment was served on  
9 Plaintiff's counsel, and the judgment entered properly reflects the  
10 court's decision.

11 The other grounds for relief raised in Plaintiff's motion do  
12 not represent newly discovered evidence that could not have been  
13 presented at the original trial, fraud upon the court, or any other  
14 ground for relief from judgment recognized in Rule 60(b).

15 The court need not address whether Plaintiff has standing to  
16 bring this motion without joinder by the chapter 7 trustee.

17 Oral argument could not cure the deficiencies in the motion,  
18 would not be helpful to the court, and would only increase the cost  
19 of these proceedings.

20 **\*\*END OF MEMORANDUM\*\***

Court Service List

Alexis Mager Lakusta  
1259 El Camino Real, #245  
Menlo Park, CA 94025

Catherine Schlomann Robertson, Esq.  
Law Offices of Pahl & Gosselin  
160 West Santa Clara Street, 14th Fl.  
San Jose, CA 95113-1700

Charles E. Sims  
P.O. Box 1247  
Sonoma, CA 95476

Aron M. Oliner, Esq.  
Buchalter, Nemer, Fields & Younger  
333 Market Street, 25th Fl.  
San Francisco, CA 94105-2130